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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,768	11/28/2000	Hiroshi Kondo	1503.64981	6836
24978	7590	12/21/2004	EXAMINER	
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			PUENTE, EMERSON C	
			ART UNIT	PAPER NUMBER
			2113	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/723,768	KONDO ET AL.	
	Examiner Emerson C Puente	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 November 2004.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 13-30,32,33,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 13-30,32,33,35 and 36 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 08 March 2004 is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                               | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8/30/04</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

This is made **Non-Final**

Claims 13-30, 32-33, and 35-36 have been examined. Claims 1-12, 31, and 34 have been cancelled.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-25, 27, 29, 32, and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claim 13, 27, 29, 32, and 35, claim cites “a notification device notifying, .... , a device control unit that performs control over the failed device, of the prohibition of use of the failed device by enabling the device control unit to attempt to access the failed device” and further cites “the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device”. These limitations are contradictory. If the control unit recognizes the prohibition of use of the failed device, then the control unit is not being notified of the prohibition of use of the failed device, but instead determines the failure itself

The remaining claims, not specifically mentioned, are rejected because they are dependent upon one of the claims mentioned above.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-23, 27, 29, 32, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,530,946 of Bouvier et al. referred hereinafter “Bouvier”.

In regards to claim 13, Bouvier discloses a notification apparatus, comprising:

a notification device notifying, when a failure occurs in a system and use of a failed device is prohibited (see column 6 lines 30-35), a device control unit (see figure 2 items 240, 250, 252, 256) that performs control over the failed device (see column 3 lines 1-5), of a prohibition of use of the failed device by enabling the device control unit to attempt to access the failed device, the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device. Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

In regards to claim 14, Bouvier discloses:

wherein said notification device includes a pseudo-interrupt issuance device making the device control unit access the failed device by issuing a pseudo- interrupt to the device control unit and calling up an interrupt process of the device control unit. Bouvier discloses a timer unit which asserts a time-out signal which is received by control unit, indicating a pseudo-interrupt

Art Unit: 2113

to the control unit (see column 7 lines 30-35). Furthermore, Bouvier discloses the disabling of processing unit when the countdown elapses, such as by asserting a back-off signal to processing unit, which would halt operations (see column 7 lines 44-46), indicating a interrupt process.

In regards to claim 15, Bouvier discloses:

wherein said notification device includes an access instruction issuance device making the device control unit access the failed device by issuing an access instruction to the device control unit and calling up an access process of the device control unit. Bouvier discloses a timer unit which asserts a timeout signal which is received by control unit, indicating an access instruction issuance device making the device control unit access the failed device by issuing an access instruction to the device control unit (see column 7 lines 30-35). Furthermore, Bouvier discloses the disabling of processing unit when the countdown elapses, such as by asserting a back-off signal to processing unit or causing the processing unit to execute in a closed loop (see column 7 lines 44-47), indicating calling up an access process of the device control unit.

In regards to claim 16, Bouvier discloses:

a notification judgment device judging whether the device control unit should be notified of the prohibition of use of the failed device. Bouvier discloses a timer unit that asserts a timeout signal to the control unit during the lapse of a countdown period (see figure 2 item 252 and column 7 lines 30-35).

In regards to claim 17, Bouvier discloses:

wherein said notification judgment device includes a device judging whether a device control unit should be notified of a prohibition of use of a failed device for each device group included in the system. Bouvier discloses a timer unit that asserts a timeout signal to the control unit during the lapse of a countdown period (see column 7 lines 30-35).

In regards to claim 18, Bouvier discloses:

wherein said notification judgment device includes a device judging whether a device control unit should be notified of a prohibition of use of a failed device for each device control unit that performs control over a device included in the system. Bouvier discloses a timer unit that asserts a timeout signal to the control unit during the lapse of a countdown period (see column 7 lines 30-35).

In regards to claim 19, Bouvier discloses:

Art Unit: 2113

wherein said notification judgment device includes a device judging whether a device control unit should be notified of a prohibition of use of a failed device for each device included in the system. Bouvier discloses a timer unit that asserts a timeout signal to the control unit during the lapse of a countdown period (see column 7 lines 30-35).

In regards to claim 20, Bouvier discloses:

wherein said notification judgment device includes setting device setting information about whether the device control unit should be notified of the prohibition of use of the failed device, and outputs a judgment result corresponding to the set information. Bouvier discloses countdown period, indicating setting information, wherein the lapse of a countdown period causes a timeout signal be received by the control unit, indicating a judgment result corresponding to the set information (see column 7 lines 30-35).

In regards to claim 21, Bouvier discloses:

wherein said setting device includes a device setting the information for each device group included in the system (see column 7 lines 30-35).

In regards to claim 22, Bouvier disclose:

wherein said setting device includes a device setting the information for each device control unit that performs control over a device included in the system (see column 7 lines 30-35).

In regards to claim 23, Bouvier discloses:

wherein said setting device includes a device setting the information for each device included in the system (see column 7 lines 30-35).

In regards to claim 27, Bouvier discloses a computer readable storage medium on which a program is recorded, said program comprising:

enabling a computer to perform notifying, when a failure occurs in a system and use of a failed device is prohibited, a device control unit that performs control over the failed device, of a prohibition of use of the failed device by making the device control unit attempt to access the failed device, the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device. Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to

Art Unit: 2113

access the failed device, and when there is a failure to reset the processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

In regards to claim 29, Bouvier discloses a notification method, comprising:

prohibiting use of a failed device when a failure occurs in a system and notifying a device control unit that performs control over the failed device, of the prohibition of use of the failed device by making the device control unit attempt to access the failed device, the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device. Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

In regards to claim 32, Bouvier discloses a notification apparatus, comprising:

prohibition means for prohibiting use of a failed device when a failure occurs in a system and notification means for notifying a device control unit that performs control over the failed device of the prohibition of use of the failed device by making the device control unit attempt to access the failed device, the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device. Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6

lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

In regards to claim 35, Bouvier discloses a transmission medium for transmitting a computer program, said program comprising:

enabling the computer to perform notifying, when a failure occurs in a system and use of a failed device is prohibited, a device control unit that performs control over a failed device, of a prohibition of use of the failed device by making the device control unit to attempt to access the failed device, the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device. . Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

Claims 26, 28, 30, 33, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,600,791 of Carlson et al. referred hereinafter “Carlson”.

In regards to claim 26, Carlson discloses a notification apparatus, comprising:

a first system including a notification device for changing, when a failure occurs in an open system and use of a failed device is prohibited, the failed device being one of an input/output bus, display adapter, a display, a communication adapter, and a storage device, a state of the failed device to a state where another system related to the failed device can recognize a prohibition of use of the failed device (see column 3 lines 20-35 and column 9 lines 39-41).

In regards to claim 28, Carlson discloses a computer-readable storage medium on which a program is recorded, said program comprising:

Enabling a computer to perform changing, when a failure occurs in an open system and use of a failed device is prohibited, the failed device being one of an input/output bus, display adapter, a display, a communication adapter, and a storage device, a state of the failed device in one system to a state where another system related to the failed device can recognize a prohibition of use of the failed device (see column 3 lines 20-35 and column 9 lines 39-41).

In regards to claim 30, Carlson discloses a notification method, comprising:

prohibiting use of a failed device when a failure occurs in one system of an open system and changing a state of the failed device to a state where another system related to the failed device can recognize the prohibition of use of the failed device, the failed device being one of an input/output bus, display adapter, a display, a communication adapter, and a storage device (see column 3 lines 20-35 and column 9 lines 39-41).

In regards to claim 33, Carlson discloses a notification apparatus, comprising:

prohibition means for prohibiting use of a failed device when a failure occurs in an open system and notification means for changing a state of the failed device in one system to a state where another system related to the failed device can recognize the prohibition of use of the failed device, the failed device being one of an input/output bus, display adapter, a display, a communication adapter, and a storage device (see column 3 lines 20-35 and column 9 lines 39-41).

In regards to claim 36, Carlson discloses a transmission medium for transmitting a computer program for enabling a program, said program comprising:

enabling the computer to perform changing, when a failure occurs in an open system and use of a failed device is prohibited, a state of the device in one system to a state where another system related to the failed device can recognize a prohibition of use of the failed device, the failed device being one of an input/output bus, display adapter, a display, a communication adapter, and a storage device (see column 3 lines 20-35 and column 9 lines 39-41).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bouvier in view of US Patent No. 6,401,119 of Fuss et al. referred hereinafter “Fuss”.

In regards to claim 24 and 25, Bouvier fails to discloses:

a confirmation device checking whether another device in the system is affected by the failed device, said system prohibiting use of a device affected by the failed device and said notification judgment device judging whether a device control unit that performs control over the affected device should be notified of the prohibition of use of the affected device.

However, Fuss discloses determining whether another network element or device is affected by the detected event or failure (see abstract and column 7 lines 45-50), indicating a confirmation device checking whether another device in the system is affected by the failed device, said system prohibiting use of a device affected by the failed device and said notification judgment device judging whether a device control unit that performs control over the affected device should be notified of the prohibition of use of the affected device.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to indicate a confirmation device checking whether another device in the system is affected by the failed device, said system prohibiting use of a device affected by the failed device and said notification judgment device judging whether a device control unit that performs control over the affected device should be notified of the prohibition of use of the affected device. A person of ordinary skill in the art would have been motivated because Bouvier discloses detecting a failed device and determining whether another device is affected by the detected failure (see abstract and column 7 lines 45-50), as per teaching of Fuss, prevents affected device from affecting other devices.

***Response to Arguments***

Applicant's arguments filed March 29, 2004 have been fully considered but they are not deemed to be persuasive.

Claims 13-25, 27, 29, 32, and 35 are have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention as disclosed above. For this reason alone, claim 13-25, 27, 29, 32, and 35 stand rejected and arguments are moot.

In response to applicant's argument "Applicant respectfully traverse this rejection because the cited reference does not disclose or suggest features for recognizing the prohibition of use of a failed device, as in the present invention," examiner respectfully disagrees.

Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

In response to applicant's argument regarding claims 26,28,30,33, and 36, "Applicant respectfully traverse this rejection because the cited reference does not disclose or suggest features for changing the state of the failed device in one system to a state where another system related to the failed device can recognize a prohibition of use of the failed device," examiner respectfully disagrees.

Carlson discloses an IOP manager (notification device) updating the resident system management information to indicate the new status of the subject device (see column 3 lines 25-30), indicating changing the state of the failed device in one system to a state where another system related to the failed device can recognize a prohibition of use of the failed device. When the status information is received by the secondary IOP managers (another system), the secondary IOP recognizes a prohibition of use of the failed device.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emerson C Puente whose telephone number is (571) 272-3652. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

***Emerson Puente***

4/21/03



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